

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of)	
)	
Telecommunications Relay Service and)	CC Dkt No. 98-67
Speech-to-Speech Services for Individuals)	
with Hearing and Speech Disabilities)	CG Dkt. No. 03-123
)	
)	

COMMENTS OF COMMUNICATION SERVICE FOR THE DEAF

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SUMMARY

CSD requests that the Commission mandate relay translation services that enable users of American Sign Language to communicate by telephone with Spanish speaking individuals. Because ASL is the visual language used by most deaf individuals in America, and Spanish is the second most common spoken and written language in America, deaf Americans should be able to use TRS to converse with hearing Americans who speak Spanish. CSD urges that relay providers be permitted to seek reimbursement from the Interstate TRS fund for the provision of other non-shared language relay translation services, where such services are needed by specific populations.

CSD opposes additional mandates with respect to call set-up times for video relay services (VRS). VRS callers have unique signing styles that sometimes warrant additional time for setting up their calls. Establishing a time limit by which these calls must be connected can result in impeding the ability of relay providers to meet these consumers' needs. In any event, because VRS providers are not presently reimbursed for call set-up time, adequate incentives to keep these times to a minimum already are built into the relay structure.

CSD urges the FCC to require the establishment of a nationwide, comprehensive outreach and education program to educate the general public about the existence and use of relay services. More than a decade after the start of relay services, far too many Americans remain entirely unaware of the existence of these services. CSD proposes that this outreach program be administered by the TRS Fund Administrator and supported through the Interstate TRS Fund.

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I. Introduction

Communication Service for the Deaf (CSD) submits these comments in response to the Federal Communications Commission's (FCC's) Notice of Proposed Rulemaking (NPRM) accompanying its Second Report and Order in the above captioned proceeding on telecommunications relay services (TRS).¹ CSD is a private, non-profit organization that provides programs and services intended to increase communication, independence, productivity, and self-sufficiency for all individuals who are deaf and hard of hearing. Established in 1975, CSD provides direct assistance to individuals through education, counseling, training, communication assistance, and telecommunications relay services. At present, CSD provides relay services as a subcontractor to Sprint or owns and maintains TRS operations-calls centers in over thirty states. In addition, CSD provides video relay services as a subcontractor to Sprint throughout the entire United States and its territories.

¹ *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CC

II. Non-Shared Language Relay Translation

In its First Improved TRS Order, the FCC acknowledged that the provision of both (1) American Sign Language (ASL)-to-English translation relay services and (2) non-English language relay services in a shared language are permissible and even necessary to achieve functional equivalency.² At that time, however, the Commission stopped short of authorizing or mandating the provision of other non-shared language relay translation services.

After the First Improved TRS Order was released, the Texas Public Utilities Commission submitted a petition urging the Commission to permit interstate cost recovery for other types of relay translation services. Specifically, the Texas PUC noted that there is a significant Hispanic population in Texas whose deaf children are educated in ASL, but whose parents speak Spanish. Sprint supported this petition to enable deaf children of foreign language speaking families to be able to communicate with those families by telephone. In its Second Improved TRS Order, the FCC acknowledges the need for non-shared TRS translation services to meet the “unique needs of certain identifiable TRS users.”³ Second Report and Order at ¶114. The Commission now seeks public comment on whether this service should be reimbursable or mandated as a TRS service.

CSD urges the FCC to *mandate* the provision of non-shared language relay services for ASL-to-Spanish relay translation nationwide. CSD further urges the FCC to

Docket No. 98-67, CG Docket No. 03-123, FCC 03-112 (rel. June 17, 2003) (Second Improved TRS Order)

² *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 00-56, 15 FCC Rcd 5140 (rel. March 6, 2000) (First Improved TRS Order) at ¶29.

³ Second Improved TRS Order at §114.

permit reimbursement for other non-shared language translation relay services – i.e., for languages other than Spanish – where the demographics indicate the unique need for such translation.

A. ASL-to-Spanish Translation

To understand the need for a non-shared language relay translation mandate for ASL and Spanish, one must first understand the nature of American Sign Language. As the FCC noted in its First Improved TRS Order, ASL is a *visual* language, not a language based on written text or spoken words.⁴ Nor is ASL English; in fact, ASL is *not* the visual language used by deaf populations living in other English-speaking countries, such as Canada, England, or Australia. Sign languages are founded in the countries in which they are based; each country in the world has its own sign language. Accordingly, deaf children growing up in *America* are placed in educational and social settings that expose them mainly to *ASL*, regardless of the written and spoken language used by their parents and others in their families. This is why children who grow up in Spanish speaking homes who are deaf learn ASL – they are learning the *American* version of sign language. For these American deaf children, any written and spoken language is “foreign” – whether that be English, Spanish or another language.

Having established that ASL is a language unique to *America*, one must next consider the basic purpose of TRS – i.e. to facilitate telephone communication between individuals who are deaf or hard of hearing, including ASL users, and individuals who

⁴ First Improved TRS Order at ¶30.

are hearing. Title IV of the Americans with Disabilities Act was designed to extend our nation's telecommunications systems to the greatest extent possible, to individuals with hearing and speech disabilities, including users of ASL. Because English is the principal language spoken in America, the FCC has made a determination that the provision of ASL-to-English relay translation can help to achieve this Congressional goal. But the FCC has also recognized that next to English, Spanish is "the most widely spoken" language in the United States.⁵ It follows then, that people living in America who use ASL should also be able to use relay services to communicate with people who speak Spanish. Otherwise stated, just as deaf children and adults who use ASL (and who have not learned text/spoken-based *English* because of their deafness) are able to converse with their English speaking parents and friends via relay, so too should deaf children and adults who use ASL (and have not learned text/spoken-based *Spanish* because of their deafness) be able to converse with their Spanish speaking parents and friends.

The Hispanic population in America is growing; it is now the largest minority population in our country. Now more than ever before, nearly all forms of media and information created for the general public in English are being produced in Spanish as well. For example, interactive voice response systems used by businesses and governments are now adding a Spanish option to their menus, corporate vendors are providing Spanish along with English versions of their product inserts and promotional materials, and advertisements appearing on buses, billboards and other public locations are increasingly incorporating Spanish text into their messages. Nationally televised Latino music awards, bi-lingual Presidential debates, and ever-expanding Spanish

⁵ *Id.* At ¶45.

language television and radio stations also demonstrate the intensifying growth of America's Spanish-speaking communities.

Requiring ASL-to-Spanish relay services is really no different than requiring ASL-to-English relay services – both require American deaf individuals (using a visual language) to communicate with American hearing individuals (using a spoken/text based language). On the other hand, to deny ASL-to-Spanish relay service is to deny relay access to millions of Spanish speaking Americans who wish to communicate with deaf hearing children, parents, or friends by telephone. The Spanish-speaking community has made repeated requests to CSD to provide Spanish-to-English VRS. It is clear from these requests that there is a demand for this type of service, and that Spanish-to-Spanish TRS does not adequately accommodate the language needs of the Spanish-speaking population in the United States. Given the huge increase in this population, ASL-to-Spanish translation is as critical as is ASL-to-English translation in meeting the FCC's functional equivalency mandates. The provision of ASL-to-Spanish translation through video relay services (VRS) is especially vital, because communicating in one's native sign language truly brings about a functionally equivalent relay service.

The FCC has, on two prior occasions, acknowledged the need to issue disability rules that reflect and acknowledge America's growing Latino communities – first, in requiring that television programs in Spanish be closed captioned, and second, in requiring Spanish-to-Spanish interstate relay services. Moreover, the FCC's very own

website and written materials provided through its Consumer and Governmental Affairs Bureau provide information in both English and Spanish.⁶

B. Other Languages

The arguments in support of providing non-shared language relay translation in languages other than Spanish are the same as those for ASL-to-Spanish: deaf American ASL users (who use a visual language) should be able to speak to hearing Americans who use other written and spoken languages. However, CSD admits that the case for mandating relay services for languages that are not as prevalent as Spanish are less compelling at this time. In addition, securing interpreter services in several languages to provide VRS on demand would be extraordinary difficult, if not impossible.

The United States contains pockets of communities, however, where the provision of non-shared language translation services in other languages may be needed, and the availability of skilled interpreters to provide this service may in fact be feasible.⁷ CSD recommends that TRS providers in these locales be permitted, though not required, to offer non-shared language relay services to meet the needs of these communities, and to receive reimbursement for those services.

III. Call Set-Up for Video Relay Services

The FCC seeks comment on how it should regulate call set-up time, including whether to require a specified call set-up time for various types of TRS calls. With respect to the provision of VRS, CSD opposes any further mandates on call set-up time.

⁶ If the FCC does agree to mandate the provision of ASL-to-Spanish relay services, CSD stands ready to provide these services through VRS within thirty days after such FCC notification, so long as the VRS rate takes the costs of providing these services into account.

⁷ For example, populations heavily populated with French speaking individuals, such as New Orleans and sections of Florida, already utilize French in their relay services. ASL-to-French TRS should be reimbursable through the Interstate TRS Fund in these and similar communities.

In the VRS environment, a VRS agent must become visually acquainted with callers who use sign language to ensure that communication is both established and understood by all parties to VRS calls. CSD's VRS centers utilize "floaters" – VRS interpreters and/or supervisors who roam the VRS center floors – to assist with this function. In CSD's experience, approximately 20% of VRS callers require the assistance of VRS floaters to accommodate their unique signing styles. In addition, floaters are often summoned to assist with fast paced calls such as conference calls, and calls utilizing unique vocabulary that is not routinely encountered (calls involving highly technical, government-related, or other specialized vocabulary). Securing the support of a floater can delay the VRS call set-up process, depending on the availability of the particular type of support needed. Imposing a maximum call set-up time for VRS may impede the ability of VRS providers to provide this and other support needed to ensure quality VRS communications access.

In any event, at present, adequate incentives already exist to reduce call set-up (and wrap-up) times to the lowest minimum times possible. Specifically, under current FCC guidelines, VRS providers are only reimbursed by the Interstate Relay Fund for conversation minutes. Because CSD and other VRS providers are not reimbursed for time needed to either set-up or wrap-up each VRS call, we have a built-in incentive to explore and engage in the greatest efficiencies with respect to both agent video call processing and technology to reduce these non-billable VRS provider costs.⁸

CSD recommends that call set-up be left to individual VRS providers. This will allow consumers to choose those providers which provide the service call process,

⁸ For this reason, a call set-up mandate would not be likely to offer any real cost savings to the Interstate Relay Fund.

quality, and result that best meets their needs. Built-in incentives to reduce call set-up times should suffice to ensure high relay service quality and to keep costs down for the Interstate Fund.

IV. Public Access to Information and Outreach

The need for extensive outreach and consumer education on TRS remains great. Although TRS has been mandated for the past ten years, large numbers of deaf, hard of hearing, speech disabled, and hearing users of TRS and VRS remain unaware of the availability and use of these services. The number of actual relay users – especially VRS and speech-to-speech – when compared with the number of consumers in need of these services is inordinately small. In addition, hearing individuals continue – even after a decade of these services – to hang up on relay callers as a result of mistaken beliefs that they are receiving telemarketing calls.⁹ Lack of public awareness about the use of relay services impedes the ability of these consumers to effectively carry out their job functions, and to participate as equal members in all aspects of society.

The FCC has acknowledged the importance of providing comprehensive outreach to potential relay consumers on numerous occasions.¹⁰ The Commission has recognized that fulfilling the objective of Congress to bridge the telephone gap between people who are hearing and people who have hearing and speech disabilities will be quite difficult if the public is not aware of the availability and use of TRS.¹¹ Moreover, the Commission has recognized that its existing consumer education rules, requiring the distribution of

⁹ At any given time, the number of hang ups can reach as high as six percent of all TRS calls. In part this is due to misunderstandings by recipients as to the nature of these calls.

¹⁰ See e.g., First Improved TRS Order at ¶¶104-105.

¹¹ *Id.* at¶105; *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Second Report and Order, CC Dkt No. 92-105, FCC 00-257 (rel Aug. 9, 2000) (711 R&O) at ¶56.

relay information through billing inserts and directory assistance,¹² have not been successful in widely informing members of the general public about the existence and use of relay services.¹³ It was because of these inadequacies that the FCC directed carriers to go beyond its 1991 outreach mandates when it promulgated rules requiring 7-1-1 relay access in 2000. The 7-1-1 rules require carriers “to engage in on-going and comprehensive education and outreach programs to publicize the availability of 711 access in a manner reasonably designed to reach the largest number of consumers possible.”¹⁴ The Commission has made clear that where the costs of such outreach are attributable to the provision of interstate relay services, relay providers may include these costs in data reports of total TRS operating expenses submitted annually to NECA.¹⁵

A few states have already conducted outreach programs that have proven successful. For example, in Maryland, comprehensive statewide outreach activities resulted in significantly expanding the number of Maryland residents who developed familiarity with that state’s relay programs. After extensive television advertising, newspaper ads, bill inserts, and other outreach measures, Maryland found that inquiries to its customer service lines increased dramatically and that relay call volumes – sedentary for nearly a year – went on the rise.¹⁶ But while some states have taken the initiative to broaden relay awareness, others have provided little, if any consumer education. Moreover, outreach and advertising expenses have been unnecessarily duplicated across states that have initiated these programs. While some state education may still be

¹² 47 C.F.R. §64.604(c)(3).

¹³ Id.

¹⁴ 711 R&O at ¶61.

¹⁵ Id.

¹⁶ Comments of State of Maryland Department of Budget and Management, filed in CC Dkt. No. 98-67 at ¶12-13 (July 20, 1998).

necessary to inform the residents of individual states about their state relay programs and features, at least some of the duplication occurring across these state programs can be eliminated through a single national campaign that would benefit all subscribers uniformly across America.

There are two ways that a nationwide outreach campaign could be funded. The first would be entirely through the Interstate TRS fund. Alternatively, both the states and the Interstate Fund could be used to support national outreach. If this approach is preferred by the Commission, CSD proposes an allocation methodology similar to that currently employed for 800 traffic. Each state, based on its percentage of interstate traffic submitted to the Interstate Fund, could contribute a portion toward the national outreach expenses. In the event that this methodology were adopted, states would need adequate time to accommodate these incremental expenses, as well as to make any necessary legislative or regulatory changes governing the collection and disbursement of their intra-state funds. Regardless of which methodology is used – exclusive support from the Interstate Fund or the assistance of state contributions – CSD urges the FCC to permit the TRS Fund Administrator to procure the services of vendors to conduct a coordinated and comprehensive outreach program to promote universal access to all forms of TRS.

In order to have a measurable impact on the national community of potential TRS users, adequate funding must be set aside for outreach efforts. In fact, a directive for a *comprehensive* TRS outreach campaign would be consistent with the Commission's actions in its Report and Order on 711 access. In that ruling, the Commission laid out what it said it believed to be necessary to achieve a successful campaign: dissemination of "information through the mainstream media, including newspaper, radio, and

television advertisements and articles, which can more effectively reach substantial portions of the American public.”¹⁷ The Commission also noted the importance of distributing information through conferences, membership publications, and public service announcements using public figures.

States that have developed and conducted comprehensive outreach programs have set aside enough funds to blanket their states with information about relay services. Sufficient funding is needed to ensure that potential users of 711, STS, VRS and the many new technologies and services now required by the FCC’s rules, become as familiar with these TRS features as consumers of the traditional telephone network are with its various services. Concurrent television, print and collateral media need to be deployed routinely so that over time, consumers become fully aware of the existence of these various services. Outreach of a more limited scope would have little return on investment and would not produce the desired results.

That the Commission has sufficient authority to authorize a national outreach program and to direct NECA to administer that program with Interstate TRS funds cannot be disputed. Outreach is merely one component of the provision of relay services. If Americans remain unaware of these services, achieving full integration of people with hearing disabilities into the mainstream of the telecommunications network will never be achieved. This would not be the first time that the FCC has ever directed the telecommunications industry to provide consumer outreach. As noted above, the Commission has required extensive outreach to inform the general public about the availability of 7-1-1 relay access. In addition, there have been a number of other

¹⁷ 711 R&O at ¶62.

occasions when the Commission has deemed consumer awareness to be an essential component of the telecommunications industry's responsibility to its subscribers.¹⁸

Moreover, use of the Interstate TRS fund to support a nationwide TRS outreach campaign would be fully consistent with the FCC's use of this shared funding mechanism to provide interstate TRS in general. Lack of adequate interstate outreach activities reveal that carriers have been reluctant to take on this task by themselves. Use of the Interstate Fund will spread the costs across the entire subscriber base, making it more likely that such outreach will be sufficiently funded and more effective for its intended audiences.

In the event that outreach is required, it is important for it to be conducted by those who have a demonstrated knowledge of deafness and TRS. In particular, it is critical for deaf, hard of hearing, and speech disabled consumers of relay services and organizations representing the interests of such consumers to be involved in any comprehensive promotional and outreach advertising campaign. All materials prepared must reflect disability sensitivity and fully meet the needs of the relay user population.

In summary, CSD believes that the Commission would be well served to require a coordinated, nationwide effort overseen by the Interstate TRS Fund Administrator. The result will be increased TRS use by consumers who are currently unaware of these services, reduced numbers of telephone hang-ups, and increased customer support for

¹⁸ See e.g., *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996) (requiring wireless carriers to conduct extensive outreach about the deployment of enhanced wireless 911 services); *Rules and Policies Regarding Calling Number Identification Service – Caller ID*, Report and Order and Further Notice of Proposed Rulemaking, 9 FCC Rcd 1764 (1994) (requiring carriers to educate consumers about the ability of carriers to pass through the calling party's telephone number).

businesses that currently lack knowledge of how to effectively make their services and products available to all users of TRS, both hearing and deaf.

V. Proposed New Features

The Commission seeks comment on the application of a number of LEC offerings to relay services. Specifically, the FCC tentatively concludes that anonymous call rejection, call screening, and preferred call-forwarding should be offered by TRS providers if they are offered by the TRS consumer's local carrier and if the TRS facility can send Caller ID to that local carrier. In addition, the FCC seeks comment on whether talking return call functionality should be mandated for TRS calls.¹⁹

All of these proposed features are functions of SS7/Caller ID technologies, which are available through traditional LEC-based services. Because VRS does not receive Caller ID information and relies primarily upon non-voice IP-based end user identification, these LEC-based "POTS" features would not be feasible now, nor in the future for VRS. CSD urges the FCC to clarify that these new features do not apply to VRS to avoid ambiguity and provider confusion. CSD also wishes to note that each LEC brands these various services differently, and recommends that future FCC orders contain a definition of the particular feature being considered so as to level the playing field, and ensure that all commenting parties are responding to the same feature and functionality.

VI. Conclusion

CSD applauds the FCC for continuing to take the initiative to improve TRS for all Americans, and for taking an additional step toward achieving relay services that are truly

¹⁹ Second Improved TRS Order at ¶¶121-124.

functionally equivalent to conventional voice telephone services. CSD submits these comments in an effort to assist the Commission in reaching this goal.

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